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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/343,762 11/21/94 LAUREN

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EXAMINER

*[Signature]*

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ART UNIT PAPER NUMBER

4

BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES CA 90025

2317

DATE MAILED:

03/22/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 6 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:  
is set to expire three month(s), or thirty days,

- whichever is longer, from the date of this communication.
1.  Notice of References Cited by Examiner, PTO-892.
  2.  Notice of Draftsman's Patent Drawing Review, PTO-948.
  3.  Notice of Art Cited by Applicant, PTO-1449.
  4.  Notice of Informal Patent Application, PTO-152.
  5.  Information on How to Effect Drawing Changes, PTO-1474.
  6. \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1 - 4 are pending in the application.

Of the above, claims 3 are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1 - 2 & 4 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

EXAMINER'S ACTION

### **Part III DETAILED ACTION**

#### **Election/Restriction**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-2 & 4, drawn to a network channel intercommunication system, classified in Class 395, subclass 200.02.

Group II. Claim 3, drawn to system of concurrently servicing a real/non-real time request queues, classified in Class 370, subclass 58+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as concurrently servicing real/non-real request queues, which is not present in the invention I. See M.P.E.P. § 806.05(d).

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. James H. Salter (Reg. 35,668) on March 19, 1996 a provisional election was made with traverse to prosecute the invention of I , claims 1-2 & 4. Affirmation of this election must be made by applicant in responding to this Office action. Claim 3 is withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

### **Drawings**

6. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### **Specification**

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

8. The disclosure is objected to because of the following informalities: On page 1, the co-pending patent applications should be properly identified. Appropriate correction is required.

### **Claim Rejections - 35 USC § 103**

9. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

10. Claims 1-2 & 4 are rejected under 35 U.S.C. § 103 as being unpatentable over Mizuhara et al. (4,985,887).

i. In figure 2, Mizuhara teaches the basic claimed structure as follows:

Claims 1-2 & 4 Mizuhara (fig 2)

- asymmetric network
  - (4 & 7)
- upstream/downstream manager
  - (11-18)
- first channel
  - (13)
- means for receiving a first message from a client on said first channel
  - (11,14,16-17)
- client
  - (5)
- first message
  - "terminating code", "transmission control procedure", "call setup signal", See columns 4-5, lines 42-22
- means for assigning a second channel address to said client
  - (15-17)
- means for routing said first message to said requested service
  - (11,15,17,16)
- means for receiving a second message from said requested service
  - feature of (2) sending data to (5) via (1)
- means for routing said second message to said client on said second channel
  - feature of (2) sending data to (5) via (1)

ii. Difference between the claimed invention and the teachings of the Mizuhara reference is that the reference does not expressly mention the identical environment (e.g., client-server media). However, such environment is very well known and commonly practice by the one skilled artisan at the time of the invention. In addition, the client-server environment/system requires a communication network/means (e.g., claimed communication network); as a result, it would have been obvious at the time the invention was made to one having ordinary skill in the art to utilize the reference's communication system in the claimed environment, for the reasons stated above.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Shin whose telephone number is (703) 305-9600. The examiner can normally be reached on Monday - Thursday from 7:00 AM to 4:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone number for this Group is (703) 308- 5359.

Christopher B. Shin  
March 20, 1996

**Christopher B. Shin  
PRIMARY EXAMINER  
ART UNIT 2317**

